SEP 2 3 1999 897

Marin Audubon Society Box 599 Mill Valley, California 94942-0599

September 23, 1999

VIA FACSIMILE

Rick Breitenbach
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Secramento, CA 95814

Post-it® Fax Note 7671 | Date 9/23/99 | # of pages ▶ 8
To R. Breitenbach | From D. Selzman
Co./Dept. CALFED | Co.
Phone # | Phone # 415 924-6057
Fax # | Fax # 415 927-3533

RE: COMMENTS ON DRAFT PROGRAMMATIC DEIS/R

Dear Sirs and Madams:

The Marin Audubon Society appreciates the opportunity to submit comments on the CALFED DEIS/R. Although many aspects of the program was well motivated and provides some improve current conditions, the Program falls far short of ensuring urgently needed improvement and enhancement for the Bay-Delta.

We are concerned that CALFED is violating one of its initial guiding principles: that there will be no redirected impacts. Under the current the Program impacts are being redirected to the ecosystem, its fish and other natural resources being asked to bear the impacts that have been and would be generated in the future by other users. Our comments seek to ensure that does not happen, and that future generations are left, to the maximum extent possible, a legacy of a healthy, naturally functioning Estuary.

Our overall comments, followed by comments on specific technical reports and programs, are:

Our primary concern is the failure of the Program and the EIS/R to deal with fresh water flows through the Delta, Suisun and North Bay. Every discussion of fish populations cites declining fresh water flows as a cause of the decline. Yet increasing fresh water for the fish is not even addressed as a serious issue. Instead, the focus is on increasing the supply for people uses. All Estuary improvements would be through mimicking the historic flow pattern. While this may improve conditions, there is no evidence that the improvement would be sufficient to recover species or significantly rehabilitate the Estuary

- The Program should include and the Programmatic EIS should address the following specific issues:

- The descriptions in Vol. 1 of the ERP unanimously identify low Delta outflow as a contributing factor in the decline of every species of fish native to the Estuary. Yet there is no discussion of flow standards for fish species. The DEIS should discuss why mimicking the pattern of flows would be sufficient for each of the native species, standards that could be

897

established with current knowledge, and recommend scientific studies and monitoring will be conducted to determine the fresh water quantities needed by each native species.

- Scientific studies should be developed and carried out to define the fresh water needs of fish, Suisun and San Pablo wetlands and other resources of the estuary. An environmental baseline flow for high, medium and low rainfall years needs to be developed that goes beyond the already existing and minimal requirements of the CVPIA and ESA. Augment those minimal standards through scientific study that will assure all native species and habitats have adequate fresh water supply to maintain population levels and complete life cycle functions.

- Right now there are no assurances the resources will get any water except that required under the ESA. CVPIA water requirements have not been implemented. An environmental baseline should be developed to ensure that:

  - the entrapment zone is maintained with in the area recommended by the CCMP or more beneficial location for aquatic resources
  - flushing and sediment transport functions provided by flows are adequate to maintain the ecological processes and Estuary-dependent species.
  - flows are adequate to ensure the recovery and maintenance of sustainable populations of all native fish and wildlife and populations of all species
  - Suisun Marsh and San Pablo Bay fresh/brackish wetland resources are protected through adequate fresh water flows .

- Address how the WQCP will impact Suisun marsh specifically the interior Suisun marsh, plant communities and endangered and threatened plants that depend on it. A recent report from PWA stated that "...implementation of the WQCP along will significantly reduce salinities in the western interior marsh (Suisun) at station S-97 over existing conditions. (February 16, 1999 for Golden Gate Audubon). Identify the salinities that can be expected in Suisun Bay, Grizzly Bay, and Honker Bay under the proposed WQCP.

- Measures that assure the additional flows for the environment will be acquired and maintained should be presented. The Water supply program emphasis on reclamation, conservation, recycling/reuse has the least potential to cause environmental damage and the most to benefit the estuary resources. However, assurances that a portion of the water gained through these measures will be committed to the environment are essential components of the program.

- A comprehensive monitoring program that addresses the fresh water needs of fish, wetlands and the physical process of the Estuary should be developed and implemented. We agree with the statement on page 5 of the Ecosystem Restoration Program Plan "In some case problems are well understood and the steps to improvement are clear. I n other cases, there is some understanding of the reasons for decline but this understanding is not sufficient to warrant ful Salle implementation." In those latter cases, it is vital that an aggressive monitoring program be instituted that will identify the reasons for decline. The fresh water flows needed for each species during their life cycles needs to be added.

897

- The Implementation program must contain clear steps to implement remedial measures, including more water, that are revealed through the monitoring program to be needed to rehabilitate the Estuary and its species.

Habitat Restoration

The CALFED program appears to have moved away from directly supporting, and thereby encouraging restoration of habitats but is now focused on planning and study. This exemplified in the introduction of the Watershed Planning program and the deemphasis on habitat restoration projects in the funding program. We are concerned that the lack of a program goal/objective that actively promotes and facilitates habitat restoration is contrary to CALFED objectives of improving the Bay/Delta and species and will slow or hinder rehabilitation that could be accomplished with a strong project habitat-restoration components. The Watershed Program Plan does not even have objectives of restoring habitat. (See comments below The DEIS/R should address why on-the-ground restoration has deemphasized and why it should not be restored? We recommend that wetland and other habitat be restored to the ERP.

We are also concerned that the restoration discussions emphasizes large restorations. While large restorations are the ideal, the value of small wetlands and small wetland restorations should not be overlooked. Some small wetland restorations expand existing large wetlands (such as the project we will be doing with our CALFED grant), or could set the stage for other small restorations to be implemented in the long run that would have broad, cumulatively significant impacts. The DEIS/R should address this issue.

Definition of Habitat Types

The Ecosystem Restoration Program Plan identifies the wetlands of Suisun and San Pablo Bays as Saline Emergent Wetlands, with a caveat that this category includes brackish and saline wetlands. We have objected earlier to this definition and we continue to object. Marshes in these areas of the Bay are variable depending on the amount of fresh water available. Defining them as saline, even with the caveat in the text, conveys a view that they are saline marshes, which promotes a management regime based on the lack of necessity of supplying fresh water to these marshes. Why bother if they are saline? The DEIS/S should address the long-term impact of the proposed flow regime on these wetlands. Standards should be established and required to ensure that these marshes remain fresh/brackish.

Alternatives

We support the non-structural solutions at least until there is adequate data to support the clear and overwhelming benefits to the Estuary's aquatic resources of any new facilities. The EIS should address a revised alternative that relies on non-structural solutions now.

Phase 1 should be revised to prohibit any additional diversions or facilities until the monitoring program should be include revised to address the fresh water needs of fish, wildlife and wetlands, and estuary. No structural modification should be constructed unless and until

897

monitoring demonstrates with certainty that the modifications will benefit and not have adverse impacts on the estuary resources. A revised analysis should address the concern that once in place management of facilities can be managed to the detriment of the resources.

Environmental Review

Any structural modifications should automatically trigger a project specific EIS/R. While the EIS/R speaks to further environmental review, it is not clear what this means. Environmental review could cover a Negative Declaration or Categorical Exemption. This Programmatic EIS/R should commit to preparing a EIS/R for each structural project and for all other management modifications that have the potential, either individually or cumulatively, to adversely impact species or the Estuary.

Comments on Specific Technical Reports:

Watershed Program

The goals and objectives of the Watershed Program as defined at 1.5 of the Plan, do not ensure or promote the enhancement of the ecosystem, its species and habitats. The objective have only to do with relationship and processes between and among organizations, agencies, and stakeholders. The Goals simply stress that the Watershed Program would provide assistance for activities that help to achieve the mission and objectives of CALFED. It is not clear what this means.

We recommend that the Watershed Plan objectives be revised so that the goals./objectives of all Watershed Plans improve ecosystem functioning and quality, improve and expand habitat, increase fish populations, restore wetlands and natural stream morphology, improve downstream flows and species populations. CALFED should not waste its time and money on watershed planning that does not promote watershed restoration. CALFED must ensure that all watershed plans, particularly if they remain the only or primary vehicle for restoration, enhance and restore the Bay-Delta natural resources.

While necessary to some degree, there is a risk in segmenting the Bay-Delta Watershed into smaller watersheds . That risk is that broader picture may be lost in the detail. CALFED must ensure that the total picture is considered and that information and actions from each individual watershed is used to benefit the whole.

There is no component of the Watershed Program that will support on-the-ground restoration project that will directly benefit the Bay-Delta ecosystem. Habitat restoration should be added as a strong component.

Finally, there needs to be a process that assures that all of the Bay-Delta watersheds eventually will have strong protective watershed plans. Since watershed planning relies primarily on local stakeholder interest, there is a risk that some watersheds will not have a spontaneous group that arises and will require intervention.

897

Water Transfer Program

The Water Transfer Program should include actions to ensure water is acquired for augmenting existing in-stream flow. We do not agree that acquisition of instream flow should only occur through federal or state agency purchase. That would be too dependent on the political system. Other mechanisms and means should also be available for obtaining environmental water. These should be part of the CALFED Program, and addressed more fully in the DEIS/S:

- acquisition of environmental water by private environmental interests
- establishment of instream water right,
- protecting the public trust interests in the protection of fish and instream resources (as reflected in Mono Lake decision)
- changing water law to establish in-stream water rights,
- establishing a baseline supply for critically dry, average and wet rainfall years.
- requiring that a percentage of all water conserved through conservation, recycling, reclamation be dedicated to the resource.
- requiring that environmental water stays in the stream and is not diverted..

We support establishment of a water clearinghouse as an absolute necessity. One of its responsibilities must be to ensure that environmental water stays in the stream.

Disclosure requirements (p. 4-6) for any water project should address impacts on fish and other resources. This is supported by Many sections of water code support protection of fish and wildlife as important public resources.

Ecosystem Restoration program Plan Vol 2

We are concerned that the ERP Steps: (page 7-8) are all studies. Create a Science Program, Prepare Conceptual Models testable hypotheses, Immediate Research etc. Are there no actions that can be taken in the short term?

Monitoring: A major component of the CMARP should focus on how much fresh water flow is needed to sustain the fish species and fresh/brackish characteristics of Suisun. Marsh and San Pablo Bay. Also, there should be a commitment to changing management if monitoring indicates actions are needed to restore species and estuary processes.

We agree that loss of habitat to urban, industrial and agricultural uses is the primary reason for decline in Clapper Rail population of this species (page 25). Federal and State agencies should commit to opposing development that impacts Clapper Rail. In addition, the primary habitat for this species is salt marsh, the area of restoration should be in the Bay, not upstream where the habitat is fresher. We are concerned that with broad goals allow restoration out of the Clapper Rail normal range could be an excuse for allowing salinity intrusion. Salt Marsh Harvest Mouse situation is similar to Clapper Rail. The Harvest Mouse habitat restoration focus should be in the most saline part of the estuary, i.e. in San Francisco Bay.

897

Why is the San Pablo Bay Song Sparrow not included as a species of concern?

A recovery target should also be assigned to all endangered species no matter where in the estuary.

The description of wetlands in Suisun and San Pablo Bay on page 113 should be changed from saline emergent wetland to brackish/fresh wetland..

The discussion of Suisun on page 121 incorrectly identifies the boundaries of this Bay and Marsh as the Richmond-San Rafael Bridge. The San Pablo Bay discussion on the following page should cite this bridge as a boundary.

The Visions for Suisun Marsh and the North Bay/San Pablo Bay should include maintaining them as fresh/brackish habitats taking into consideration the seasonal variability in rainfall. The natural variability should not be lost by muting

The recommended acreages for tidal marsh restoration are far below what are necessary to restore or rehabilitate the North Bay and what are actually possible. Only 10,000 acres are proposed for restoration to tidal action in all of Suisun, Napa River, Sonoma Creek, Petaluma River, and San Pablo Bays with only 500 to 1,000 acres is identified in the Petaluma River/San Pablo Bay Units. MAS will be doing 1/10 to 1/5 of that with our CALFED grant, which means not much more restoration is need to meet these meager goals. We strongly recommend that these target acreages be increased. In addition, as discusses above, the tidal emergent wetlands in these Units should not de described as saline.

Target acreages should be added for Seasonal Wetlands in San Pablo Bay. The failure to identify any acreage targets for this wetland type in San Pablo Bay is a cause for alarm because, with no target for seasonal wetlands and the very low targets for tidal marsh, it appears that CALFED is writing off tens of thousands of diked bayland acres for development in San Pablo Bay. In Marin alone there are 10,000 acres of diked bayland in private ownership that should be either restored to tidal marsh or enhanced as seasonal. Ecologically, seasonal wetlands provide an important habitat component for overwintering shorebirds and waterfowl, water, quality and other benefits.

Ecosystem Restoration Program Plan, Strategic Plan for Ecosystem Restoration

We have several concerns about the recommendations of the scientific review panel: a time schedule is needed to avoid unnecessary delays; ; and that there is no mention of public review, only interaction with scientists. Both of these should be added.

As mentioned above, this Plan relies completely on restoring the pattern of flows. Restoring fresh water flows water should be added as a component.

Ecosystem restoration is defined as "re-establishing a balance"of ecosystem structure and function to meet the needs of plants, animal and humans while maintaining a healthy economy.

897

What does this "balance" mean? Who is defining it?

What is the basis of statement made on page 4, "there is no benefit to ecosystem restoration if it destroys the fabric of society it is intended to serve"? What justifies that outcome as a statement of fact? The ecosystem and the many ecological and other benefits it provides, evolved as a physical and biological process. It is not here because it is "intended to serve" any special interest or societal user group.

We strongly disagree with the fatalistic view expressed on page 5 that the multiple public benefits provided by most dams ...preclude their removal." Provide the analysis upon which that conclusion is based. Perhaps the so called benefits are not as important as the detriments. The analysis should include an evaluation of benefits vs. adverse impacts. If no such analysis exists, this judgmental statement should be removed.

The need to provide "balance" is referenced in numerous locations in this document. For example, that there is a need to balance "provide resources for future consumptive use with the need to provide high-quality environments...." For the last 100 years there has been no balance; actions of humans have contributed to the overwhelming destruction of the Estuary. Balance now means restoring the Estuary. Future consumptive uses have no limits, yet the Estuary is again having to bear the burden of all impacts.

Don't see how there can be a restoration of physical processes if only requirements of the ESA and CVPIA are followed. Standards resulting from those laws are either not clear or are not ensured.

Elements of Ecosystem-Based Management:
#1 This element speaks to passing on to future generations "a site of natural capital resources equivalent to that which the present generation has available." This is not enough. This current generation has ruined this Estuary and we should not be passing it on in that, or perhaps an even worse condition, on as our legacy to future generations. There must be a guarantee of relevant research and commitment to change to rehabilitate the Estuary. Triggers for making changes should be identified.

#3 Decisions must be based on sound ecological models and understanding. In turn, those models must be based on comprehensive on the ground truthing and observation. Also, a model should be developed and used that reflects environmental components alone. Another additional model can integrate social, economic and environmental components. It is vital to have a clear environmental view. Also, the program should include provision for the models to be regularly revisited, independently reviewed and up-to-dated.

#7. We agree that eventually humans will suffer serious consequences of a degraded/destroyed ecosystem. However, management is a human AND an ecological problem, because the ecological resources bear the burnt of the mistakes people make. CALFED should guard against defining impacts by those who are organized ans speak the loudest. They may not have the overall benefit of the are often defined by those with the loudest.

897

The preamble (page 22) to the Goals reflect a desire for ecosystems that incorporate people as integral parts because they use the Estuary for products, food, water and power that benefit the large society. How was the loss of wetlands and fish populations, water quality, waterfowl populations taken into account?

We object to sustaining populations of non-native species, such as striped bass, that are detrimental to native species particularly native species that are listed as endangered and threatened.

Goal 1 The conflict be not only be between protecting endangered species and providing reliable species of water for urban and ag uses, but between providing adequate water for this Estuary and it s biological processes. Large self-sustaining populations of endangered species AND all native species and habitats should be supported..

Table 4-1 Waterfowl population protections should not just be based on hunting and recreation. Waterfowl populations are part of the ecosystem and our natural heritage and should be protected apart from recreational interests.

The Environmental Review discussion on page 34 should be more specific in describing future environmental review requirements than "most proposed actions will require environmental review." What type of environmental review would be required for what type of project?

2. Natural Flow Regime: (page 35) The discussion addresses specific circumstances related to dams and invasive species. The ERP should be addressing more water for the Estuary, how much species and habitats need to restore population, not just timing. While the decrease in variability of flow regime may be one factor that may be contributing to the explosion of exotic species, reduced fresh water may be another.

9. X-2 relationship. We agree that additional attention and study needs to be focused on the biological process underlying the location of the null zone. The location of the null zone and its importance to ecosystem species and processes should become a greater component of the CALFED plan.

Regarding Opportunity 8. Opportunities should certainly be seized to develop large scale pilot projects but so should opportunities for small projects.

Sincerely,

Barbara Salzman
Conservation Committee